

Message Text

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ACTION EA-09

INFO OCT-01 ISO-00 CIAE-00 PM-04 H-02 INR-07 L-03 NSAE-00

NSC-05 PA-01 PRS-01 SP-02 SS-15 NSCE-00 SSO-00

USIE-00 INRE-00 IO-13 OMB-01 SAM-01 ACDA-07 EB-07

TRSE-00 OES-06 (ISO) W

----- 006687

O 070700Z SEP 76

FM AMEMBASSY MANILA

TO SECSTATE WASHDC IMMEDIATE 9873

INFO SECDEF WASHDC IMMEDIATE

JCS WASHDC IMMEDIATE

CINCPAC IMMEDIATE

CINCPACAF IMMEDIATE

CINCPACFLT IMMEDIATE

CINCPACREPPHIL SUBIC IMMEDIATE

CG 13TH AF CLARK IMMEDIATE

C O N F I D E N T I A L SECTION 1 OF 3 MANILA 13607

CINCPAC ALSO FOR POLAD

USDEL MANILA 237

E.O. 11652: GDS

TAGS: MARR, RP

SUBJECT: PHILIPPINE BASE NEGOTIATIONS: ACCESS, MOVEMENT AND
OPERATIONAL ACTIVITIES (ARTICLE VI)

1. FOLLOWING IS TEXT OF AD REFERENDUM WORKING PAPER ON NEW
EXPANDED ARTICLE VI AS IT PRESENTLY STANDS WITH PARENTHESES,
IDENTIFYING THE SIDE WHICH PROPOSED SUCH PARAGRAPHS OR WORDS,
UTILIZED FOR THOSE PARAS OR WORDS WHICH ARE NOT YET AGREED.
BACKGROUND AND RATIONALE FOR THIS ARTICLE ARE PROVIDED SEPTEL.

QUOTE: ARTICLE VI - ACCESS, MOVEMENT AND OPERATIONAL
ACTIVITIES

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1. VESSELS, AIRCRAFT AND VEHICLES OF THE UNITED STATES ARMED FORCES (RP: WITHIN THE AGREED FORCE LEVELS) SHALL BE ACCORDED (US: FREE) ACCESS TO, EGRESS FROM THE MOVEMENT BETWEEN THE FACILITIES BY LAND, AIR AND SEA. THE PHILIPPINE BASE COMMANDER SHALL BE NOTIFIED OF SUCH MOVEMENTS IN ACCORDANCE WITH PROCEDURES AGREED BETWEEN THE PHILIPPINE BASE COMMANDER AND THE UNITED STATES FACILITIES COMMANDER.

2. CIVILIAN AIRCRAFT OR VESSELS CHARTERED OR ENGAGED WHOLLY OR PARTIALLY BY OR ON BEHALF OF THE UNITED STATES ARMED FORCES (RP: IN SUPPORT OF THE AGREED FORCE LEVELS) SHALL BE ACCORDED (US:FREE) ACCESS TO, EGRESS FROM AND MOVEMENT BETWEEN THE FACILITIES BY LAND, AIR AND SEA. NOTIFICATIONS OF SUCH MOVEMENTS AND ARRANGEMENTS FOR CUSTOMS, IMMIGRATION, AND THE LIKE SHALL BE ACCOMPLISHED IN ACCORDANCE WITH PROCEDURES AGREED BETWEEN THE PHILIPPINE BASE COMMANDER AND THE UNITED STATES FACILITIES COMMANDER. SUCH VESSELS AND AIRCRAFT SHALL LOAD OR OFF-LOAD ONLY CARGO INTENDED FOR USE OF THE UNITED STATES FORCES, (RP: AND UNITED STATES PERSONNEL) (US:, MEMBERS OF THE UNITED STATES FORCES, MEMBERS OF THE (#)

AS PROVIDED FOR IN THIS
AGREEMENT OR AS OTHERWISE AGREED.

3. (RP: THE PHILIPPINES, THROUGH THE PHILIPPINE BASE COMMANDER, SHALL BE RESPONSIBLE FOR PORT SECURITY AND SHALL CONTROL ACCESS TO AND EGRESS FROM SUBIC BAY AS WELL AS CONTROL OF THE HARBOR. THE PHILIPPINE BASE COMMANDER SHALL, IN COORDINATION WITH THE UNITED STATES FACILITIES COMMANDER, ALLOCATE HARBOR AREAS TO BE RESERVED FOR USE OF THE UNITED STATES FORCES. THE UNITED STATES, THROUGH THE UNITED STATES FACILITIES COMMANDER, SHALL BE AUTHORIZED TO
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CONTROL MOVEMENT AND OPERATION OF SHIPS AND WATERBORNE CRAFT AND ASSIGN PRIORITIES OF BERTHS AND MOORINGS WITHIN THE FACILITIES AND THE HARBOR AREAS RESERVED FOR UNITED STATES VESSELS. THE PHILIPPINE BASE COMMANDER AND THE UNITED STATES FACILITIES COMMANDER SHALL PROMULGATE AGREED POLICIES AND PROCEDURES WHICH SHALL ENSURE UNHAMPERED ACCESS AND MOVEMENT OF UNITED STATES ARMED FORCES VESSELS AND VESSELS CHARTERED OR UNGAGED WHOLLY OR PARTIALLY BY OR ON BEHALF OF THE UNITED STATES ARMED FORCES. THE PORT CONTROL

OFFICE SHALL BE JOINTLY MANNED IN ORDER TO ENSURE THAT SUCH COORDINATED POLICIES AND PROCEDURES ARE IMPLEMENTED EFFECTIVELY AT THE WORKING LEVEL.) (US POSITION NOT YET SUBMITTED)

4. THE UNITED STATES, THROUGH THE UNITED STATES FACILITIES COMMANDER, IS AUTHORIZED TO CONTROL AIR TRAFFIC AT THE FACILITIES AND WITHIN THE AIRPORT CONTROL AREAS IN THE VICINITY OF THE FACILITIES. SUCH CONTROL SHALL BE EXERCISED IN CONSONANCE WITH PROCEDURES ESTABLISHED BY THE PHILIPPINE CIVIL AERONAUTICS ADMINISTRATION PURSUANT TO STANDARD PRACTICES AND RECOMMENDED PROCEDURES OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION. LOCAL PROCEDURES SHALL BE ESTABLISHED IN CONSULTATION WITH THE PHILIPPINE BASE COMMANDER WHICH SHALL PROVIDE FOR MANNING BY BOTH PHILIPPINE AND UNITED STATES CONTROLLERS IN THE AIR TRAFFIC CONTROL FACILITIES AT CLARK AIR BASE. LOCAL PROCEDURES MAY BE ESTABLISHED IN CONSULTATION WITH THE PHILIPPINE BASE COMMANDER FOR MANNING BY BOTH PHILIPPINE AND UNITED STATES CONTROLLERS IN THE CONTROL TOWER AT CUBI POINT NAVAL AIR STATION.

5. ALL AIRCRAFT FLIGHTS SHALL BE CONDUCTED IN ACCORDANCE WITH PROPERLY FILED FLIGHT PLANS AND SHALL BE GOVERNED BY THE FLIGHT RULES AND REGULATIONS ESTABLISHED BY THE PHILIPPINE CIVIL AERONAUTICS ADMINISTRATION PURSUANT TO STANDARD PRACTICES AND RECOMMENDED PROCEDURES OF THE INTERNATIONAL CIVIL AVIATION ORGANIZATION, EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT OR AS OTHERWISE AGREED.

6. IN CONNECTION WITH ENTRY UNDER NORMAL CONDITIONS INTO PHILIPPINE COMMERCIAL PORTS BY VESSELS OF THE UNITED STATES ARMED FORCES (RP: WITHIN THE AGREED FORCE LEVELS) APPROPRIATE PRIOR NOTIFICATION SHALL BE SUBMITTED TO THE PHILIPPINE AUTHORITIES, AND CLEARANCE CUSTOMARY FOR MERCHANT VESSELS SHALL BE OBTAINED FROM THE APPROPRIATE PHILIPPINE AUTHORITIES FOR GENERAL AGENCY AGREEMENT
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(GAA) AND WHOLLY CHARTERED OR ENGAGED VESSELS.

7. VESSELS AND AIRCRAFT OF THE UNITED STATES ARMED FORCES, AS WELL AS OTHER VESSELS AND AIRCRAFT CHARTERED OR ENGAGED WHOLLY BY OR ON BEHALF OF THE UNITED STATES ARMED FORCES, FOR OFFICIAL PURPOSES, SHALL BE EXEMPT FROM COMPULSORY PILOTAGE AND FROM ALL TOLLS,

DUES, FEES, AND SIMILAR CHARGES. WHEN PORTS AND AIRPORTS NOT WITHIN THE FACILITIES ARE USED, HOWEVER, SUCH WHOLLY CHARTERED OR ENGAGED AIRCRAFT SHALL BE SUBJECT TO LANDING AND PARKING FEES, AND SUCH WHOLLY CHARTERED OR ENGAGED VESSELS SHALL BE SUBJECT TO BERTHING FEES AND OTHER VESSEL CHARGES. SUCH VESSELS AND AIRCRAFT SHALL ALSO BE FREE FROM ALL OTHER CHARGES EXCEPT FOR SERVICES REQUESTED AND RENDERED

WHICH SHALL BE PAID FOR AT PREVAILING RATES.

NOTE BY OC/T: (#) OMISSION. CORRECTION TO FOLLOW. 9/7/76 VMT.

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ACTION EA-09

INFO OCT-01 ISO-00 CIAE-00 PM-04 H-02 INR-07 L-03 NSAE-00

NSC-05 PA-01 PRS-01 SP-02 SS-15 NSCE-00 SSO-00

USIE-00 INRE-00 IO-13 OMB-01 SAM-01 ACDA-07 EB-07

TRSE-00 OES-06 (ISO) W

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC IMMEDIATE 9874

INFO SECDEF WASHDC IMMEDIATE

JCS WASHDC IMMEDIATE

CINCPAC IMMEDIATE

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8. VESSELS AND AIRCRAFT OF THE UNITED STATES ARMED FORCES SHALL BE, AS IN THE CASE OF PHILIPPINE MILITARY AIRCRAFT AND NAVAL VESSELS, IMMUNE FROM SEARCH AND INSPECTION. THE EXISTENCE OF KNOWN OR SUSPECTED COMMUNICABLE DISEASES ON BOARD VESSELS AND AIRCRAFT OF THE UNITED STATES ARMED FORCES SHALL BE REPORTED TO THE PHILIPPINE BASE COMMANDER OR APPROPRIATE PHILIPPINE AUTHORITIES.

9. AIRCRAFT OF THE UNITED STATES ARMED FORCES WITH CREW MEMBERS WHO ARE CITIZENS OF A THIRD COUNTRY AND WHO ARE NOT MEMBERS OF THE UNITED STATES ARMED FORCES SHALL NOT LAND WITHIN THE PHILIPPINES WITHOUT PRIOR APPROVAL.

10. IN CASE OF AIRCRAFT ACCIDENTS INVOLVING AIRCRAFT OF THE UNITED STATES ARMED FORCES IN PHILIPPINE TERRITORY OUTSIDE OF THE FACILI-

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THE FOLLOWING SHALL APPLY:

A. PHILIPPINE AND UNITED STATES AUTHORITIES SHALL COOPERATE IN RESCUE MEASURES WITH PRIMARY RESPONSIBILITY BELONGING TO THE UNITED STATES AUTHORITIES. MEASURES TO TAKE CHARGE OF RECOVERING THE DAMAGED AIRCRAFT AND ITS TECHNICAL EQUIPMENT SHALL BE THE RESPONSIBILITY OF THE APPROPRIATE UNITED STATES AUTHORITIES.

B. PHILIPPINE MILITARY OR POLICE FORCES SHALL HAVE PRIMARY RESPONSIBILITY FOR THE EXTERNAL SECURITY OF SUCH DAMAGED AIRCRAFT. HOWEVER, UNITED STATES ARMED FORCES, IF FIRST ON THE SCENE, MAY ASSUME SUCH PRIMARY RESPONSIBILITY PENDING THE ARRIVAL OF PHILIPPINE FORCES.

C. PHILIPPINE AND UNITED STATES AUTHORITIES SHALL COOPERATE FULLY IN THEIR SEPARATE INVESTIGATIONS OF AIRCRAFT ACCIDENTS. UNITED STATES AUTHORITIES SHALL FURNISH WHATEVER DATA AND TECHNICAL ASSISTANCE ARE DEEMED NECESSARY, WITH THE EXCEPTION OF PRIVILEGED OR CLASSIFIED INFORMATION.

11. IN ADDITION TO THE OTHER PROVISIONS OF THIS AGREEMENT, THE FOLLOWING SHALL APPLY TO VESSELS OF THE UNITED STATES ARMED FORCES, CREW MEMBERS, AND PASSENGERS THEREOF:

A. IN PORTS OTHER THAN THOSE IN THE VICINITY OF THE FACILITIES:

(1) REGULATIONS DULY PRESCRIBED BY THE PHILIPPINE BASE COMMANDER FOR THE PARTICULAR PHILIPPINE BASE OR STATION VISITED.

(2) REGULATIONS PRESCRIBED BY THE LOCALLY DESIGNATED PHILIPPINE AUTHORITY IN OTHER PHILIPPINE PORTS.

(3) THE UNITED STATES SENIOR OFFICER PRESENT AFLOAT (SOPA) SHALL COORDINATE WITH THE PHILIPPINE SENIOR OFFICER PRESENT (SOP), OR OTHER DESIGNATED PHILIPPINE AUTHORITY, CONCERNING THE USE OF UNITED STATES NAVY SHORE PATROL. UNITED STATES NAVY SHORE PATROL SHALL NOT BE UNDER ARMS UNLESS SPECIFICALLY AUTHORIZED BY THE PROPER PHILIPPINE AUTHORITY.

B. IN PORTS IN THE VICINITY OF SUBIC NAVAL BASE:

(1) DIRECTIVES JOINTLY ISSUED BY THE PHILIPPINE BASE COMMANDER AND THE UNITED STATES FACILITIES COMMANDER.

(2) SUCH OTHER PROCEDURES AS MAY BE AGREED UPON BETWEEN THE PHILIPPINE BASE COMMANDER AND THE UNITED STATES FACILITIES COMMANDER.

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(3) THE USE OF UNITED STATES NAVY SHORE PATROL SHALL BE GOVERNED BY THE PROVISIONS OF THE JOINT SECURITY PLAN PROVIDED FOR IN PARAGRAPH 3, OF ARTICLE IV OF THIS AGREEMENT.

12. THE UNITED STATES MAY TAKE SUCH MEASURES CONSISTENT WITH THE PROVISIONS OF THIS AGREEMENT AS ARE NECESSARY FOR THE CONSTRUCTION, UTILIZATION, MAINTENANCE, OPERATION, SECURITY, CONTROL AND DEFENSE OF THE FACILITIES AUTHORIZED FOR ITS USE AS WELL AS ACCESS THERETO. SPECIFICALLY, UNLESS OTHERWISE PROVIDED IN THIS AGREEMENT OR AS OTHERWISE AGREED, THE UNITED STATES IS AUTHORIZED TO:

A. IMPROVE OR DEEPEN THE HARBORS, CHANNELS, ENTRANCES AND ANCHORAGES WITHIN OR IN THE VICINITY OF THE FACILITIES;

B. CONSTRUCT AND MAINTAIN NECESSARY ROADS AND BRIDGES AFFORDING ACCESS TO THE FACILITIES;

C. CONSTRUCT AND UTILIZE WELLS, WATER CATCHMENT AREAS OR DAMS WITHIN THE FACILITIES TO INSURE AN AMPLE SUPPLY OF WATER FOR ITS NEEDS. THE MAINTENANCE AND USE OF SUCH CONSTRUCTIONS, IF OUTSIDE THE FACILITIES, SHALL BE IN ACCORDANCE WITH AGREED PROCEDURES;

D. ACQUIRE SUCH RIGHTS OF WAY AS MAY BE REQUIRED FOR MILITARY TELECOMMUNICATIONS PURPOSES, INCLUDING SUBMARINE AND SUBTERRANEAN CABLE, FOR PIPELINES AND FOR SPUR TRACKS FOR RAILROADS TO THE FACILITIES;

E. EMPLOY AND USE ANY PUBLIC UTILITY, HIGHWAY AND SERVICE, SUCH AS ELECTRIC POWER, COMMUNICATIONS, WATER AND SEWAGE, UNDER SUCH TERMS, CONDITIONS AND PRIORITIES AS MAY BE APPLICABLE AT THE TIME TO THE ARMED FORCES OF THE PHILIPPINES;

F. (RP: MAINTAIN AND EMPLOY ON THE FACILITIES OR ON ANY RIGHT OF WAY ACQUIRED, ANY EXISTING STRUCTURE, WEAPON, SUBSTANCE, DEVICE, VESSEL OR VEHICLE ON OR UNDER THE GROUND, IN THE AIR OR ON OR UNDER THE WATER THAT ARE REQUISITE OR APPROPRIATE, INCLUDING METEOROLOGICAL SYSTEMS, AERIAL AND MARINE NAVIGATION LIGHTS, AND RADIO, TELEVISION AND RADAR APPARATUS AND ELECTRONIC DEVICES OF APPROPRIATE POWER, TYPE OF EMISSION AND FREQUENCY, EXCEPT AS OTHERWISE PROHIBITED BY THE PHILIPPINES. THE UNITED STATES MAY CONSTRUCT, INSTALL, MAINTAIN AND EMPLOY ANY NEW SUCH STRUCTURE, WEAPON, SUBSTANCE, DEVICE, VESSEL OR VEHICLE SUBJECT TO PRIOR CONSENT OF THE PHILIPPINES.)

(US: CONSTRUCT (INCLUDING DREDGING AND FILLING), INSTALL, MAINTAIN AND EMPLOY ON THE FACILITIES OR ON ANY RIGHT OF WAY ACQUIRED, STRUCTURES, WEAPONS, EQUIPMENT, MATERIAL, DEVICES, VESSELS OR VEHICLES ON OR UNDER THE GROUND, IN THE AIR OR ON OR

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UNDER THE WATER, THAT MAY BE REQUISITE OR APPROPRIATE, INCLUDING METEOROLOGICAL SYSTEMS, AERIAL AND MARINE NAVIGATIONAL LIGHTS, AND RADIO, TELEVISION AND RADAR APPARATUS, AND COMMUNICATIONS AND ELECTRONIC DEVICES OF APPROPRIATE POWER, TYPE OF EMISSION AND FREQUENCY.)

G. ESTABLISH, MAINTAIN AND CONTROL MORALE, HEALTH, EDUCATIONAL, WELFARE AND RECREATIONAL ACTIVITIES, ORGANIZATIONS, CLUBS

AND ASSOCIATED STRUCTURES AND EQUIPMENT;

H. STATION IN THE PHILIPPINES, UNITS, VESSELS, AIRCRAFT, AND PERSONNEL OF THE UNITED STATES FORCES AS MAY BE REASONABLY REQUIRED FOR THE SUPPORT AND FULFILLMENT OF THE MISSION OF THE FACILITIES. (RP: OTHER UNITS, VESSELS, AIRCRAFT AND PERSONNEL OF THE UNITED STATES ARMED FORCES SHALL BE INCLUDED IN AN AGREED FORCE LEVEL LISTING WHICH SHALL BE REVIEWED JOINTLY ANNUALLY.)

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SP-02 SS-15 OMB-01 SAM-01 IO-13 ACDA-07 EB-07 TRSE-00

OES-06 (ISO) W

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC IMMEDIATE 9875

INFO SECDEF WASHDC IMMEDIATE

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CINCPACREPPHIL SUBIC IMMEDIATE

CG 13TH AF CLARK IMMEDIATE

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13. UNLESS NECESSITATED BY MILITARY REQUIREMENTS DETERMINED BY THE TWO GOVERNMENTS, ACTIONS TAKEN PURSUANT TO THE ABOVE-MENTIONED AUTHORIZATIONS IN PARAGRAPH 12 SHALL BE UNDERTAKEN REASONABLY, WITH DUE REGARD FOR THE SAFETY OF PERSONS AND PROPERTY, AND IN A MANNER THAT WOULD NOT INTERFERE WITH NAVIGATION, AVIATION, COMMUNICATION OR LAND TRAVEL WITHIN THE PHILIPPINES. LIGHTS AND OTHER AIDS TO NAVIGATION OF VESSELS AND AIRCRAFT PLACED OR ESTABLISHED IN THE FACILITIES AND LANDS AND WATERS IN THE

VICINITY THEREOF SHALL BE COMPATIBLE WITH THE SYSTEM IN USE IN THE PHILIPPINES. THE POSITION, CHARACTERISTICS AND ANY ALTERATIONS IN THE LIGHT OR OTHER AIDS SHALL BE COMMUNICATED IN ADVANCE TO THE PHILIPPINE BASE COMMANDER. IN THE PRACTICAL APPLICATION OUTSIDE THE FACILITIES OF THE MEASURES AUTHORIZED BY PARA 12 OF THIS ARTICLE, THERE SHALL BE COORDINATION BETWEEN THE TWO GOVERNMENTS AT THE APPROPRIATE LEVEL.

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14. ANY MAJOR NEW CONSTRUCTION AND IMPROVEMENT IN THE FACILITIES OR IN THE VICINITY THEREOF, OR ANY MAJOR ALTERATION WHICH RESULTS IN SUBSTANTIAL STRUCTURAL CHANGES TO EXISTING CONSTRUCTIONS SHALL BE SUBJECT TO PRIOR AGREEMENT BETWEEN THE PHILIPPINES AND THE UNITED STATES, AS REPRESENTED BY THE PHILIPPINE BASE COMMANDER AND THE UNITED STATES FACILITIES COMMANDER.

15. TOPOGRAPHIC, HYDROGRAPHIC, COAST AND GEODETIC, AND AERIAL PHOTOGRAPHIC SURVEYS IN THE IMMEDIATE VICINITY OF THE FACILITIES MAY BE CONDUCTED BY VESSELS AND AIRCRAFT OF THE UNITED STATES FORCES PROVIDED THE PHILIPPINE BASE COMMANDER IS NOTIFIED AT LEAST SEVEN DAYS PRIOR TO SUCH ACTIVITY. OTHER SUCH SURVEYS WITHIN THE PHILIPPINES MAY BE CONDUCTED BY VESSELS AND AIRCRAFT OF THE UNITED STATES ARMED FORCES ONLY UPON PRIOR APPROVAL BY THE PHILIPPINES. ALL INFORMATION RESULTING FROM SUCH SURVEYS SHALL BE SHARED FULLY WITH THE PHILIPPINE GOVERNMENT AND SHALL NOT BE SHARED WITH THIRD COUNTRIES WITHOUT PRIOR APPROVAL OF THE PHILIPPINES. LIKEWISE, NEW HYDROGRAPHIC OR AERIAL PHOTOGRAPHIC INFORMATION OR ERRORS IN PHILIPPINE MAPS, CHARTS OR SAILING DIRECTIONS AS OBSERVED IN THE COURSE OF MOVEMENTS OR VISITS SHALL BE REPORTED TO THE PHILIPPINE BASE COMMANDER AS SOON AS PRACTICABLE.

16. (RP: NUCLEAR-POWERED VESSELS AND SUBMARINES OF THE UNITED STATES ARMED FORCES SHALL NOT ENTER OR PASS THROUGH PHILIPPINE WATERS WITHOUT PRIOR APPROVAL OF THE PHILIPPINES.)

17. (RP: THE ACTIVITIES AND OPERATIONS OF THE FACILITIES SHALL BE CONDUCTED IN ACCORDANCE WITH MUTUALLY AGREED PROGRAMS CONSISTENT WITH THE PURPOSES OF THE FACILITIES.)

18. (RP: UNIT EXERCISES, TRAINING AND ROUTINE OPERATION WITHIN THE PHILIPPINES SHALL BE CONDUCTED BY THE UNITED STATES FORCES IN ACCORDANCE WITH AGREED PROCEDURES.)

19. (RP: OPERATIONS WITHIN THE PHILIPPINES OTHER THAN ROUTINE TRAINING IN ABOVE PARA 18 SHALL BE CONDUCTED ONLY WITH THE APPROVAL OF THE PHILIPPINES.)

20. (RP: THE UNITED STATES SHALL NOT ASSIGN OR SUBLET TO ANY THIRD COUNTRY THE WHOLE OR PART OF ANY OF THE FACILITIES AUTHORIZED

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FOR USE BY THE UNITED STATES OR OF ANY RIGHT, POWER OR AUTHORITY
GRANTED BY THIS AGREEMENT, OR ALLOW THE USE OF ANY SUCH FACILITIES
BY ANY THIRD COUNTRY WITHOUT PRIOR APPROVAL OF THE PHILIPPINES.)

(US: NEITHER THE PHILIPPINES NOR THE UNITED STATES SHALL ASSIGN
OR SUBLET TO ANY THIRD COUNTRY THE WHOLE OR PART OF ANY PHILIPPINE
MILITARY BASE, WITHIN WHICH FACILITIES AUTHORIZED FOR USE BY
THE UNITED STATES ARE LOCATED, OR OF ANY RIGHT, POWER AND
AUTHORITY GRANTED BY THIS AGREEMENT, OR ALLOW THE USE OF ANY SUCH
BASE BY ANY THIRD COUNTRY, WITHOUT PRIOR AGREEMENT BETWEEN
THE PHILIPPINES AND THE UNITED STATES.) UNQUOTE
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, MILITARY BASES, NEGOTIATIONS, ORGANIZATION & MANAGEMENT
Control Number: n/a
Copy: SINGLE
Draft Date: 07 SEP 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976MANILA13607
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: RR
Errors: N/A
Film Number: D760337-0715
From: MANILA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760986/aaaacvtf.tel
Line Count: 457
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EA
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 9
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 01 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <01 JUN 2004 by CunninFX>; APPROVED <29 SEP 2004 by ElyME>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: PHILIPPINE BASE NEGOTIATIONS: ACCESS, MOVEMENT AND OPERATIONAL ACTIVITIES (ARTICLE VI)
TAGS: MARR, RP, US
To: SECSTATE WASHDC WASHDC JCS WASHDC CINCPAC CINCPACAF CINCPACFLT CINCPACREPPHIL SUBIC CG 13TH AF CLARK
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006